**Steven L. Beshear**
Governor

125 Holmes Street
Frankfort, Kentucky 40601
(502) 564-7554
Fax: (502) 564-4840

**J. Michael Brown**
Secretary

# MEMORANDUM

TO:      Governor Steven L. Beshear

FROM:    J. Michael Brown, Secretary
Justice and Public Safety Cabinet

DATE:     August 25, 2010

SUBJECT:   Requests for Death Warrants


On November 23, 2009, Attorney General Jack Conway requested that you issue death warrants and set execution dates for Gregory L. Wilson, Robert C. Foley and Ralph S. Baze, Jr. He certified that the entire appellate process for all three had been exhausted and that there remained no legal impediment to the finding of their sentences.

On November 25, 2009 (as corrected January 4, 2010), the Supreme Court of Kentucky ruled in the case of Bowling v. Kentucky Department of Corrections that the Kentucky Department of Corrections (DOC) was required to promulgate a regulation to its lethal injection protocol. A public hearing was held on January 29, 2010, and the required regulations became effective on May 7, 2010.

In anticipation of receipt of your issuance of orders setting execution dates for Wilson, Foley and Baze, the DOC has been making efforts, without success, to secure enough Pentothal to carry out the three executions in a timely manner. The manufacturer of the drug has informed us that it will not be able to fill any orders for the drug prior to the first quarter of next year. We have had the drug on order since March of this year.

We currently have a sufficient amount of Pentothal on hand for one execution. We continue to make every effort to secure the drug.

Given the fact that Gregory L. Wilson kidnapped, raped and murdered Deborah Pooley in May of 1987 and was sentenced to death for those acts on October 31, 1988, and, therefore, has the oldest offense and conviction date of the three named above, it is my recommendation that his execution be scheduled first of the three when you issue the requested warrants.